

MASS.
CA22.3:
987-994
INC

UMASS/AMHERST



312066016659091

GOVERNMENT DOCUMENTS
COLLECTION

OCT 19 1994

University of Massachusetts
Depository Copy

Massachusetts Cable Television Commission

C A B L E B U L L E T I N

Number 93-3

May 27, 1993

IMPORTANT: ALL MASSACHUSETTS CABLE TELEVISION ISSUING AUTHORITIES REQUESTING BASIC SERVICE TIER AND EQUIPMENT RATE REGULATION MUST READ THIS NOTICE AND RESPOND AS DIRECTED IN ORDER TO ENSURE FCC CERTIFICATION BY THE STATE COMMISSION.

As we notified all issuing authorities in our May 10, 1993 Cable Bulletin, the Federal Communications Commission (the "FCC") has clarified that basic service tier and equipment rate regulation in Massachusetts shall, under state law, be exercised under the authority of the Massachusetts Community Antenna Television Commission (the "Commission").

In past years the Commission has held Cable Forums, conducted local training sessions, and provided ongoing assistance to local governments. We expect to continue these services, and we expect to increase our utilization of Cable Bulletins which allow us to communicate directly with you. We know that you are busy with your many and varied responsibilities and we will attempt to keep our bulletins simple and straightforward. We encourage all local issuing authorities, or their key aides, to read these bulletins as they will contain important information that will directly impact your community and often require timely action.

This bulletin is intended to serve two purposes: first, to provide local issuing authorities with their first exercise of local decision making regarding rate regulation - the determination of whether or not the community requests the Commission to seek certification and apply basic service tier and equipment rate regulation for their community; second, to provide local governments with an understanding of the timing of events that will occur as the Commission moves forward in implementing rate regulation. Also attached to this Cable Bulletin is an informative FCC Public Notice to supplement the Executive Summary that we recently forwarded to you.

Requests for Basic Service Tier and Equipment Regulation

In its Rate Regulation Report and Order the FCC stated that there is, at least initially, an opportunity for a regulating body to elect not to apply basic service tier and equipment rate regulation in its franchise area. The FCC stated "[w]e [will] not . . . assume jurisdiction at this time in all cases where a franchising authority does not apply for certification."

The state Commission is likewise interested, at least initially, in providing local Massachusetts issuing authorities with the option of electing to evoke or not evoke basic service tier and equipment rate regulation. Where communities request basic service tier and equipment regulation, rates will be regulated by the Commission. We underscore that by electing not to have basic service tier and equipment rates regulated by the Commission, communities may not regulate rates on their own.

Some analysts have stated that they believe that communities have an opportunity to enter into goodwill agreements in lieu of rate regulation. These communities may presumably elect against rate regulation for a number of reasons. For example, the issuing authority may believe that existing rates are reasonable or they may believe that the threat of regulation presents some negotiating strength that could be used to achieve desired policy goals. However, we strongly caution local governments that there are significant questions as to the legality or enforceability of such informal agreements. Further, we caution that by not making a cable operator subject to regulation as of August 4, 1993 (when the FCC's rate freeze expires), some communities may be irreversibly allowing cable operators to increase rates.¹

Therefore, we are requesting that all Massachusetts issuing authorities seeking to have the Commission regulate rates for the basic tier and equipment charges notify the Commission, via certified mail, of its request. Attached to this bulletin is a sample letter of request for basic service tier and equipment rate regulation which should be signed by the issuing authority. This letter will provide the Commission with formal notification that the issuing authority is requesting rate regulation. In turn, the Commission will apply to the FCC for certification to regulate rates for the community. The FCC has not indicated any final filing date for certification; likewise, we are not requiring that

¹ If an operator's rate is below the benchmark on the date on which the system becomes subject to regulation, the operator is not entitled to raise the rate to the benchmark. If a delay in the exercise of rate regulation occurs after the freeze expires, a cable operator with rates below the benchmark may have an opportunity to raise rates to or above the benchmark. Should that operator's rates later become subject to rate regulation, the cable operator would be required to roll back rates to the benchmark, but not any lower than the benchmark.

requests for rate regulation be sent before any deadline. However, for the reasons outlined above, local issuing authorities are encouraged to make determinations in an expeditious manner.

The FCC's Report and Order was published in the Federal Register on May 21, 1993. The FCC's rate regulation rules become effective 30 days after Federal Register publication. The Commission can file for certification 30 days after the rules become effective. The Commission would become certified 30 days after filing with the FCC. Upon certification, the Commission will notify the affected cable operators that they are subject to regulation. Upon notification, cable operators will have 30 days to file their rate schedules with the Commission.

Assuming a certification request was filed on June 21, it would become effective on July 21. If notification is sent to a regulated cable operator by next-day mail, the cable operator would have 30 days from July 22 to file its rate schedule.

Once a cable operator submits its rates to the Commission for review, the Commission must make its rate determination within the time frames set by the FCC. If rates for the basic service tier and accompanying equipment rates are reasonable under FCC standards, the rates will go into effect 30 days after they are submitted. If the Commission cannot determine whether or not rates are reasonable, the Commission may take an additional 90 days to make this determination. If an operator submits a cost-of-service showing, the Commission can take an additional 150 days for its review.

Based on the FCC's rules, the Commission expects that initial rate determinations will, at the very earliest, not begin until late summer and final rate determinations are likely to take place in the early fall.

*

*

*

The companion role of state and local cable television regulation has always presented a very high level of cooperation between the state and cities and towns. The Commission continues to actively solicit local input on the issue of rate regulation and through the rulemaking process we will seek formal input from all interested parties. We are keenly aware that successful implementation of rate regulation depends upon the communication between and cooperation of local governments and the state. We will strive to create workable procedures that achieve Congress' intent of ensuring reasonable cable rates in a manner that minimizes administrative burdens.

Should you have any questions relating to this bulletin or to cable television in general, please do not hesitate to call us at 617-727-6925.

Attachments

_____, 1993

John M. Urban, Commissioner
Massachusetts Cable Television Commission
100 Cambridge Street
Boston, MA 02202

Re: Rate Regulation Certification

Dear Commissioner:

This letter constitutes the City of/Town of _____'s formal request that the Commission regulate rates for the basic service tier and equipment in said city or town consistent with rules and regulations promulgated by the FCC.

By signing this letter of request, the issuing authority also certifies that it has duly undertaken any action necessary to authorize its signature.

Issuing Authority for the City
of/Town of _____:

Name:
Title:

Name: . . .
Title:

Name:
Title:

Name:
Title:

Name:
Title:

Name:
Title:



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

33044

News media information 202/632-5050. Recorded listing of releases and texts 202/632-0002.

May 7, 1993

CABLE TELEVISION RATE REGULATION

QUESTIONS AND ANSWERS

On May 3, 1993, the Commission released a lengthy Report and Order containing rules, forms and procedures for implementing the rate regulation provisions of the Cable Television Consumer Protection and Competition Act of 1992 ("the Cable Act"). As has been previously announced, the Commission's staff will present a workshop on the details of these regulations in the Commission's Meeting Room, Room 856, on May 13, 1993 at 2 p.m. In the interim, the following questions and answers address a number of the more basic issues relating to the rate regulation rules.

1. Question: What does the Cable Act provide regarding cable rates?

Answer: It authorizes the regulation of basic cable and cable programming services rates for every cable system that is not subject to "effective competition." Because only a relatively few systems are subject to effective competition, rates will be regulated in most situations.

2. Question: How are rates going to be regulated and who is going to undertake the regulation?

Answer: Monthly rates for cable service will be regulated by either the local franchise authority or the FCC, depending on the tier of service involved.*** The "basic" service tier will be regulated by the local franchise authority which, if it asserts its jurisdiction, will approve rates in advance. The rates for tiers of "cable programming" service will be reviewed by the FCC, but only in response to subscriber complaints. Pay-per-view and pay-per-channel offerings are not covered by the Cable Act, and their rates are not regulated.

3. Question: What specific services are included in the "basic" and "cable programming" service tiers?

Answer: The basic tier includes all of the broadcast signals (other than satellite "superstations") that the cable system distributes, as well as the public, educational and governmental access channels that are required by the local franchise authority and any other services that the cable system at its discretion chooses to include on this tier. The cable programming service

IMPORTANT NOTICE FROM THE MASSACHUSETTS CABLE COMMISSION

The FCC has ruled that, for purposes of rate regulation, the Massachusetts Cable Television Commission shall be considered the franchising authority for the state of Massachusetts. Therefore, references to responsibilities and authority of the "franchising authority" in the attached FCC public notice should be read to mean the state Commission in Massachusetts.

tier (or tiers) includes all programming services that are not on the basic tier and that are not pay-per-channel or pay-per-view services.

4. Question: How does a franchise authority regulate the basic service tier?

Answer: The franchise authority is generally the city or county government where the system is located but in some states a state commission is responsible for rate regulation. In order for a franchise authority to assume responsibility for basic service rates it must be certified by the FCC as qualified to undertake this regulation -- that it has the necessary legal authority, adequate personnel, and regulations consistent with the law and FCC regulations. If the franchise authority can demonstrate that it is unable to undertake this regulation and/or its certification is rejected, then the FCC must also assume responsibility for basic tier regulation.

5. Question: How does the FCC's regulation of the cable programming service tier take place?

Answer: The FCC's authority to regulate cable programming service rates is triggered by the filing of a subscriber complaint. Systems are not required to obtain advance approval of rates changes relating to this tier of service.

6. Question: How do subscribers complain about cable programming service rates?

Answer: Complaints must be filed on an FCC approved complaint form. This form is not yet available for use because it must be cleared for use under the Paperwork Reduction Act. Complaints cannot be accepted until the form is available; complaints that are not on the proper form will not be accepted. The form requires only very simple information regarding the locale and identity of the system and the rates paid. It does not require the subscriber to do any of the calculations required to determine the reasonableness of the rate. Complaints with respect to existing rates will be accepted for 180 days after the effective date of the rules. Complaints regarding subsequent price increases must be filed within 45 days of the receipt of a bill containing a rate increase. The required complaint form will be available directly from cable system operators and the FCC.

7. Question: When will regulation of rates begin?

Answer: The process has already commenced but several transitional steps must be completed before the full impact of the new law is felt:

- On April 5, 1993, cable systems were ordered to stop all rate increases for a period of 120 days;
- On May 3, 1993, the FCC released a comprehensive set of rules to govern the rate regulation process;
- On June 21, 1993, the rules will become effective;
- After the rules become effective, franchise authorities can seek certification to begin the basic tier rate regulation process - under the law such applications must be acted on by the FCC within 30 days;

- After a franchise authority is certified the cable operator has 30 days to submit its basic tier rates for review;
- The FCC can begin its regulation of the cable programming service tier rates as soon as the regulations become effective, i.e., on June 21, 1993, but the FCC must also receive a subscriber complaint for its authority to be triggered.

As a consequence of the need for these transitional steps, regulation will generally be commencing for most systems sometime in the summer of 1993.

8. Question: Can systems make any changes in rates during the 120-day rate freeze period?

Answer: Yes. Certain changes in tier and equipment rate structures are anticipated during the freeze period in order to comply with the new rate rules so that, for example, the price of one tier may decrease while the price of another is increased. Such changes are allowed as long as the average subscriber charge is not increased.

9. Question: When will changes in cable rates be reflected in subscriber bills?

Answer: The rules will go into effect on June 21, 1993, and decreases in cable rates should begin to occur within a few months thereafter. The vast majority of cable rates should come down, but not all will. Given the time necessary for cities to get certified and for parties to file complaints, and for actual review of rates, governmental actions to reduce rates would probably begin to occur in the late summer or early fall. Cable systems may choose to reduce their rates before that time, however, if they anticipate their rates are too high under the new standards.

10. Question: Will refunds be provided if rates were too high?

Answer: The local franchising authority or the FCC can order refunds for any period after the rules become effective on June 21, 1993. The FCC will act only in response to specific complaints. A cable system cannot be legally required to refund money for rates charged before the new rules were in effect.

11. Question: What if a franchise authority doesn't do anything about regulating cable rates?

Answer: If a city demonstrates that it is unable to regulate rates for basic tier service (because it is unqualified or lacks sufficient resources to regulate rates), the FCC will do so, upon request by the city. Before the FCC will step in to regulate rates, however, the franchising authority must show why it cannot use its franchise fees to cover the costs of rate regulation. If the city does not want to regulate rates and does not ask the FCC to regulate them, the rates for the basic tier of service will not be regulated. The FCC will still review rates for tiers above the first tier, in response to consumer complaints, regardless of whether basic rates are regulated.

12. Question: How will the FCC and franchise authorities establish reasonable rate levels?

Answer: In an effort to determine what rates would be reasonable, the FCC undertook a survey of all cable television systems in the United States that were facing actual "effective competition" as that term is defined in the law. These rates were compared with a large random sample of systems in noncompetitive situations. This survey revealed that the rates for noncompetitive systems were generally about ten percent above the rates for competitive systems on September 30, 1992, the date the survey was completed. From this survey data the FCC developed a set of per channel "benchmark" rate standards to define reasonable rate levels. These levels are generally ten percent below the rates in effect on September 30, 1992. These rate levels, however, are subject to certain adjustments to determine current reasonable rates at the time of regulation including adjustments for local franchise fees, inflation, and certain programming cost increases.

13. Question: Will charges for installations, additional outlets, converter boxes, and remote controls be subject to regulation?

Answer: Yes. All customer premises installations and equipment are subject to regulation on an actual cost (including reasonable profit) basis. This regulation will generally be undertaken by the franchise authority. Late payment fees are not subject to regulation under the Act.

14. Question: Where can interested parties get a copy of the regulations and supporting documents?

Answer: The full text of the Commission decision and the new rules will be printed in a publication call the FCC Record, which is available in large law libraries around the country. The complete new rules and a summary of the decision will be published by mid-May in the Federal Register, which should be available in most local libraries. The text is also available for purchase from the Commission's independent copy contractor, International Transcription Service, phone (202) 857-3800.

- FCC -

GOVERNMENT DOCUMENTS
COLLECTION

OCT 19 1994

University of Massachusetts
Depository Copy

Massachusetts Cable Television Commission

C A B L E B U L L E T I N

100 Cambridge Street, Boston, MA 02202 Tel.# 617-727-6925

Number 93-4

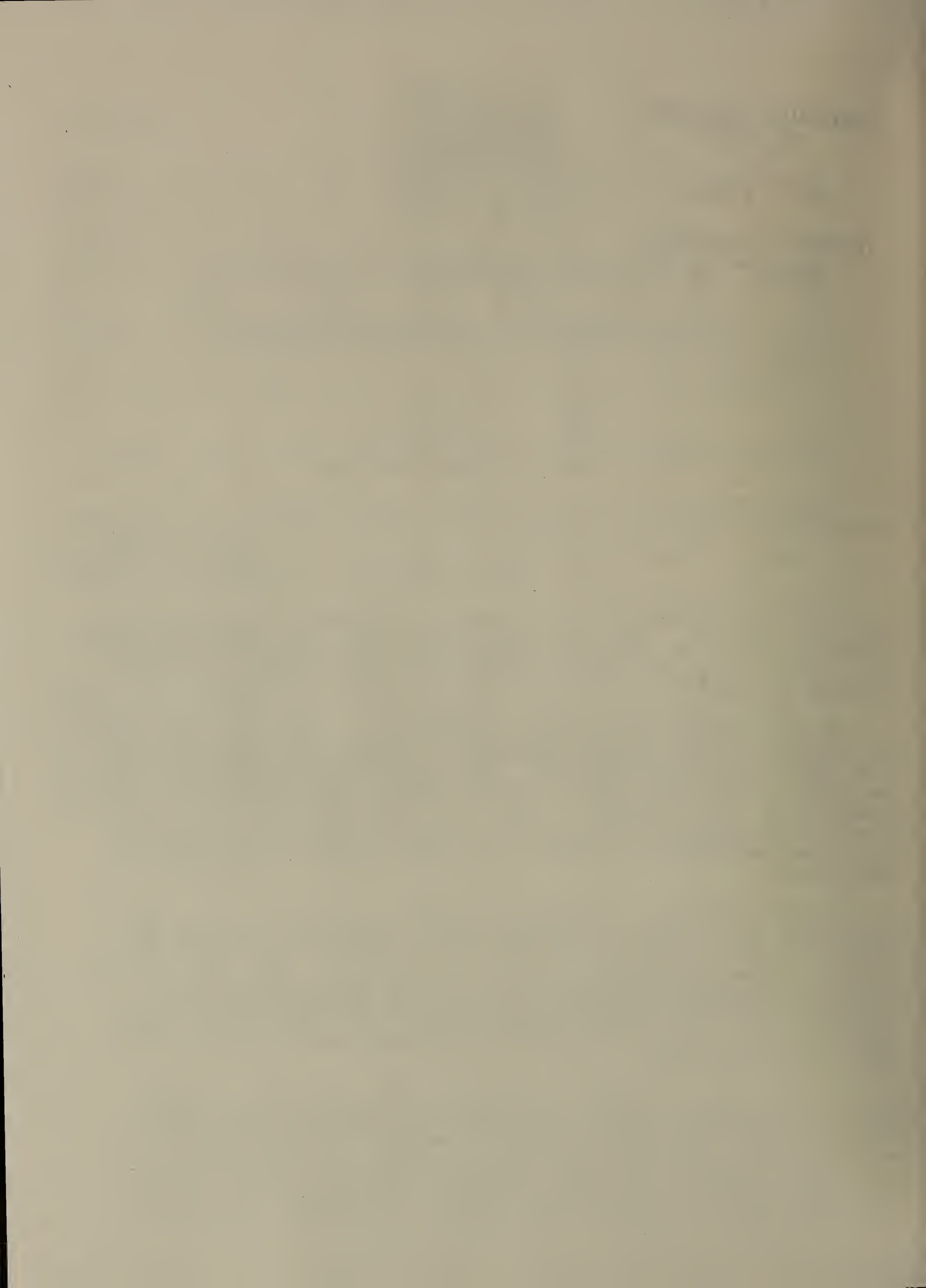
June 17, 1993

As you may have read in the press, the FCC has delayed the effective date of its rate regulations from June 21, 1993 to October 1, 1993. In order to ensure against rate increases during this period, the FCC also extended its rate freeze order to November 15, 1993.

As indicated by the attached copy of its public notice, the FCC determined that without deferring the effective date it would have been unable to meet its substantial new administrative responsibilities without additional funding, which has yet to be appropriated by Congress. While this action will delay any consumer rate relief, it will allow all parties more time to put in place the mechanisms to ensure a more orderly transition to regulation.

In Massachusetts, the previous effective date of June 21, 1993 had forced us to draft emergency rate regulations that we had planned to place into effect on June 18, 1993. Now, with the additional time provided by the FCC, we are moving forward with a Notice of Proposed Rulemaking in place of the Emergency Rulemaking. The Notice of Proposed Rulemaking process will allow us to gain input and comment from you and other interested parties before the rules go into effect.

In our May 27, 1993 Cable Bulletin, we asked issuing authorities seeking to have the Commission regulate rates for the basic tier and equipment charges to notify the Commission, via certified mail, of its request. (As a reminder, by electing not to have basic service tier and equipment rates regulated by the Commission, communities may not regulate rates on their own.) Given that the Commission will now wait until October 1, 1993 to



certify with the FCC, issuing authorities may take advantage of this extra time to further consider this issue. However, we strongly encourage issuing authorities to address this very important decision without any unnecessary delay.

The FCC's new October 1, 1993 effective date for rate regulation has no impact on the effective date of customer service regulations. As we stated in our May 3, 1993 Cable Bulletin, the customer service regulations are effective July 1, 1993. An issuing authority may adopt these regulations at any time. However, each issuing authority must provide its cable television operator ninety (90) days written notice by certified mail that it intends to enforce the FCC's standards.

In closing, we should mention that we will continue to forward information to communities via Cable Bulletins. The Commission is also planning to conduct a Cable Forum dealing with the new regulations this summer in Boston. We will keep you posted on these and other matters as they develop. In the mean time, as always, please feel to call us with any questions.

Attachment

NEWS

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

News media information 202 / 632-8250
Recorded listing of releases and texts
202 / 632-0002

JUN 16 1993

This is an "encl" announcement of Commission action. Release of the full text of a Commission order constitutes an action. See MCI v. FCC 315 F.2d 365 (D.C. Cir. 1975).

June 11, 1993

FCC Defers Implementation of Cable Service Rate Regulation Until October 1, 1993 and Extends Rate Freeze Until November 15, 1993

MM Docket 92-266

The FCC has deferred the effective date of its regulations implementing rate regulation of cable service adopted pursuant to the Cable Television and Consumer Protection Act of 1992 ("Cable Act of 1992") from June 21, 1993 until October 1, 1993. The Commission's rate regulations were adopted in Report and Order and Further Notice of Proposed Rulemaking, MM Docket 92-266, FCC 93-177, released May 3, 1993. The FCC took this action on reconsideration on its own motion of the Report and Order. The FCC deferred the effective date of all regulations adopted in the Report and Order. Effective dates for rules not involving rate regulation, adopted in other proceedings, remain unchanged.

The FCC based its decision on resource constraints. The Commission stated that even without the additional administrative responsibilities imposed by the Cable Act of 1992 it is facing a substantial budgetary shortfall for Fiscal Year 1993 potentially requiring furloughs of all FCC employees. The Commission found that the Congress has taken initial steps to provide a supplemental appropriation to the FCC for Fiscal Year 1993. However, the Commission will not be able to access additional funds for an additional period of time after the supplemental appropriation is adopted. Therefore, the Commission found that it would be unable to implement cable rate regulation on June 21, 1993. In addition, the Commission observed that a deferral of rate regulations would provide franchising authorities and cable operators additional opportunity to ensure a smooth transition to rate regulation. Accordingly, the FCC determined that it would establish an effective date of October 1, 1993 for cable service rate regulation. The FCC stated that it would continue to work with the Congress to assure the availability of funding necessary for full implementation of the Cable Act of 1992.

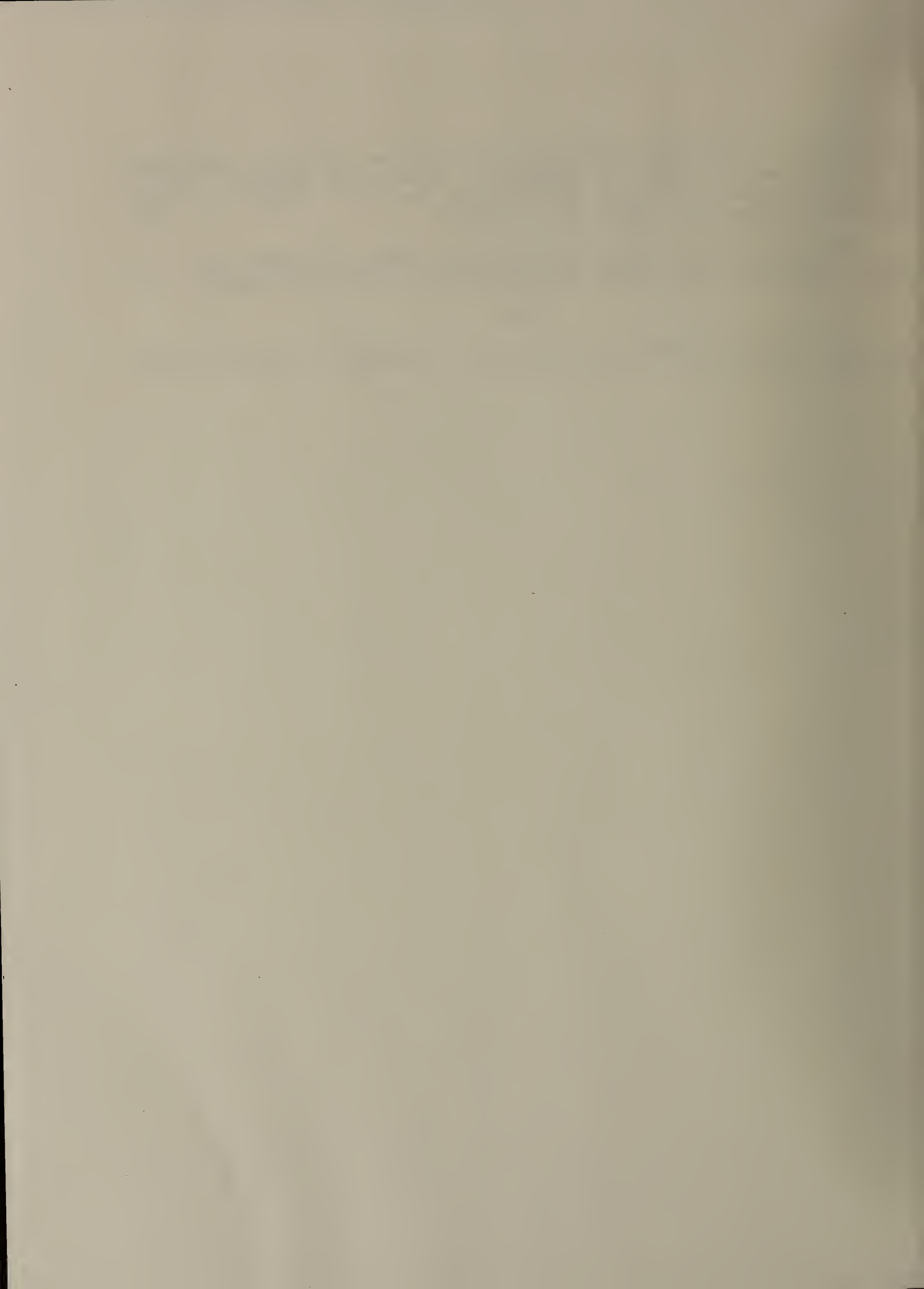
In order to prevent rate increases pending implementation of the Commission's rate regulations that could potentially undermine congressional intent that cable service rates remain reasonable, the Commission extended its current freeze of cable service rates from August 3, 1993 until November 15, 1993. The rate freeze was established in Order, 8 FCC Rcd 2921 (1993), clarified, 8 FCC Rcd

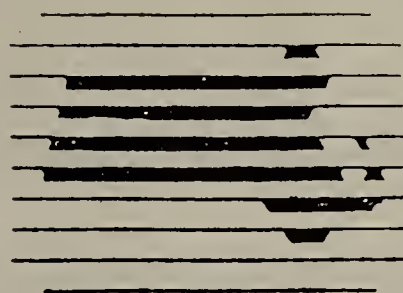
2917 (1993). The rate freeze applies to rates for cable services, including the provision of equipment, other than premium channel or pay-per-view services, offered by systems subject to rate regulation under the Cable Act of 1992.

Action by the Commission June 11, 1993, by Order (FCC 93-304). Chairman Quello and Commissioners Barrett and Duggan.

-FCC-

For further information contact: Jennifer A. Manner (202) 632-7500.





GOVERNMENT DOCUMENTS
COLLECTION

OCT 19 1994

University of Massachusetts
Depository Copy

Massachusetts Cable Television Commission

C A B L E B U L L E T I N

Number 93-6

September 28, 1993

This Cable Bulletin provides Massachusetts issuing authorities with important information regarding the regulation of cable programming services. We encourage all issuing authorities to **immediately review** the information below and take appropriate action to protect cable subscribers' rights to the maximum refund possible under the FCC rules that govern cable programming services. Finally, we suggest that you make copies of this Cable Bulletin available to your Cable Advisory Board.

BACKGROUND

The new FCC regulations define the basic service tier as the level of service that includes all of the broadcast signals (other than satellite "superstations") that the cable system distributes; public, educational, and governmental access ("PEG") channels that are required by the local franchising authority; and any other services that the cable operator at its discretion chooses to include on this tier.

The next tier of service defined under the new regulations---cable programming services---may include all programming services not on the basic tier and that are not pay-per-channel or pay-per-view services. The basic and cable programming tiers are subject to regulation under the new law. However, the regulatory jurisdiction and complaint procedures regarding cable programming services, which are discussed in this Bulletin, are substantially different from those of the basic service tier.¹

¹ The Commission discussed regulation of the basic service tier, and associated equipment, in Cable Bulletin 93-3. In addition, we anticipate mailing future Bulletins that will discuss

FILING CABLE PROGRAMMING SERVICES COMPLAINTS (FCC FORM 329)

While the Massachusetts Cable TV Commission will be regulating rates for the basic service tier and associated equipment in those communities which have requested such regulation, the FCC has jurisdiction to regulate cable programming service rates. However, regulation of cable programming services will only be triggered when the FCC receives a petition attesting that existing cable programming service rates or proposed increases are unreasonable. Indeed, the FCC will not initiate regulation (and examine the reasonableness of rates) until it receives a properly completed and timely filed complaint form. More importantly, an operator's refund liability will only extend back to the date a valid complaint (on Form 329) is filed with the FCC.

This regulatory framework creates a dilemma for state and local authorities. In order to protect subscribers' rights to the maximum refund possible in the event that rates are found to be unreasonable, complaints regarding cable programming service rates should be filed with the FCC as soon as possible. On the other hand, it is unclear whether or not it is appropriate to file a complaint indicating a belief that rates are unreasonable given the lack of information on which to base this assertion; especially in view of Line 13 of FCC Form 329 which requires a signed affirmative testament that cable programming service rates are believed to be unreasonable.

As the Commission proceeds with the regulation of the basic service tier, our benchmark determinations will identify instances where cable programming service rates appear to be above the per-channel-permitted rates. In these instances, or upon other such evidence that leads us to believe that cable programming service rates are unreasonable, we will file FCC Form 329 on behalf of a community if a complaint has not already been submitted. However, we believe--as we have said in our rate regulation Report and Order--that issuing authorities have a vital role in this process. If an issuing authority feels that FCC Form 329 should be filed at this time, we will respect your determination and will assist any way we can.

SPECIFIC QUESTIONS REGARDING FCC FORM 329

1. How Does An Issuing Authority File?

Complaints regarding cable programming service rates must be filed on FCC Form 329, "Cable Programming Service Rate Complaint Form." A copy of this form is attached for your convenience. For purposes

these regulations in greater detail.

of filing this form, Item 2 should include the Commission's name and address. Our address is: Massachusetts Cable Television Commission, 100 Cambridge Street, Suite 2003, Boston, MA 02202.

For Item 3, please use your own Community Unit Identifier Number (a list is attached for your convenience). This number may also be obtained from a cable bill of a subscriber in your community.

Please read the instructions carefully on the back of FCC Form 329. Note that you must send the original to the FCC (address on the back of the form) and one copy each to your cable operator and the Massachusetts Cable Television Commission pursuant to 207 CMR 6.62 (2).

We have also filled out a sample FCC Form 329 for the Town of Hawthorne, a fictitious community in Massachusetts. In this example, the Town of Hawthorne is submitting a complaint for existing cable programming service rates as of October 15, 1993.

2. When Must Form 329 Be Filed?

For cable programming service rates in effect on September 1, 1993, complaints may be filed any time on or before February 28, 1994. After February 28, 1994, the law bars challenges to these rates.

The time frame to file challenges to future rates is more restrictive. For cable programming service rates not in effect on September 1, 1993, complaints can only be filed within 45 days of a rate increase occurring after September 1, 1993. The 45 day period begins when a subscriber receives a bill from the operator that reflects the rate increase.²

3. What is the Refund Liability of Cable Operators?

The FCC requires operators to refund overcharges from the date a valid complaint was filed until the date operators implement the prospective rate reductions in bills to subscribers. In most cases, the refund will be equal to the difference between the disputed rate charged by operators and the ordered reasonable rate.

For example, if an issuing authority filed a complaint with the FCC on Oct. 1, 1993 and the FCC ruled that cable programming service rates were unreasonable, the FCC would order the cable operator to reduce its rates on a going-forward basis. In addition, the cable

² The FCC will return an improperly completed complaint form to the filer and provide one 30 day extension for the filer to return a corrected form. Since only a properly completed and timely filed form can initiate regulation and establish the date for an operator's refund liability, it is crucial that this form be properly filled out.

operator would be liable for refunds from the date the complaint was filed (in this case Oct. 1, 1993). On the other hand, if the issuing authority did not file the complaint until December 15, 1993 then the FCC would still order the prospective rate reduction; however, the cable operator would only be responsible for refunds as of December 15, 1993.

4. Further Questions?

If you have any question don't hesitate to contact us at (617) 727-6925 or Fax: (617) 727-7887.

MASSACHUSETTS COMMUNITY ANTENNA TELEVISION COMMISSION
COMMUNITY UNIT IDENTIFIER NUMBER LIST

<u>Name of System</u>	<u>Community Unit Identifier</u>
ABINGTON	MA 0225
ACTON	MA 0196
ACUSHNET	MA 0132
ADAMS	MA 0001
AGAWAM	MA 0046
AMESBURY	MA 0049
AMHERST	MA 0019
ANDOVER	MA 0172
ARLINGTON	MA 0115
ASHBURNHAM	MA 0337
ASHBY	MA 0262
ASHLAND	MA 0231
ATHOL	MA 0013
City of ATTLEBORO	MA 0128
AUBURN	MA 0073
AVON	MA 0214
AYER	MA 0257
BARNSTABLE	MA 0039
BARRE	MA 0329
BEDFORD	MA 0210
BELCHERTOWN	MA 0286
BELLINGHAM	MA 0221
BELMONT	MA 0316
BERKLEY	MA 0266
BERLIN	MA 0333
BERNARDSTON	MA 0088
City of BEVERLY	MA 0124
BILLERICA	MA 0079
BLACKSTONE	MA 0222
BOLTON	MA 0307
City of BOSTON	MA 0182
BOURNE	MA 0247
BOXBOROUGH	MA 0289
BOXFORD	MA 0327
BOYLSTON	MA 0260
BRAINTREE	MA 0217
BREWSTER	MA 0098
BRIDGEWATER	MA 0226
BRIMFIELD	MA 0339

City of BROCKTON	MA 0156
BROOKFIELD	MA 0335
BROOKLINE	MA 0219
BUCKLAND	MA 0070
BURLINGTON	MA 0080
City of CAMBRIDGE	MA 0280
CANTON	MA 0173
CARLISLE	MA 0293
CARVER	MA 0160
CHARLTON	MA 0309
CHATHAM	MA 0058
CHELMSFORD	MA 0147
City of CHELSEA	MA 0064
CHESHIRE	MA 0002
CHESTER	MA 0342
City of CHICOPEE	MA 0087
CHILMARK	MA 0274
CLARKSBURG	MA 0003
CLINTON	MA 0175
COHASSET	MA 0207
CONCORD	MA 0270
CONWAY	MA 0325
DALTON	MA 0027
DANVERS	MA 0279
DARTMOUTH	MA 0100
DEDHAM	MA 0238
DEERFIELD	MA 0090
DENNIS	MA 0041
DIGHTON	MA 0265
DOUGLAS	MA 0323
DOVER	MA 0314
DRACUT	MA 0169
DUDLEY	MA 0036
DUNSTABLE	MA 0343
DUXBURY	MA 0302
EAST BRIDGEWATER	MA 0253
EAST BROOKFIELD	MA 0312
EAST LONGMEADOW	MA 0092
EASTHAM	MA 0110
EASTHAMPTON	MA 0107
EASTON	MA 0233
EDGARTOWN	MA 0273
ERVING	MA 0069
ESSEX	MA 0153
City of EVERETT	MA 0047
FAIRHAVEN	MA 0131
City of FALL RIVER	MA 0099
FALMOUTH	MA 0072
City of FITCHBURG	MA 0015

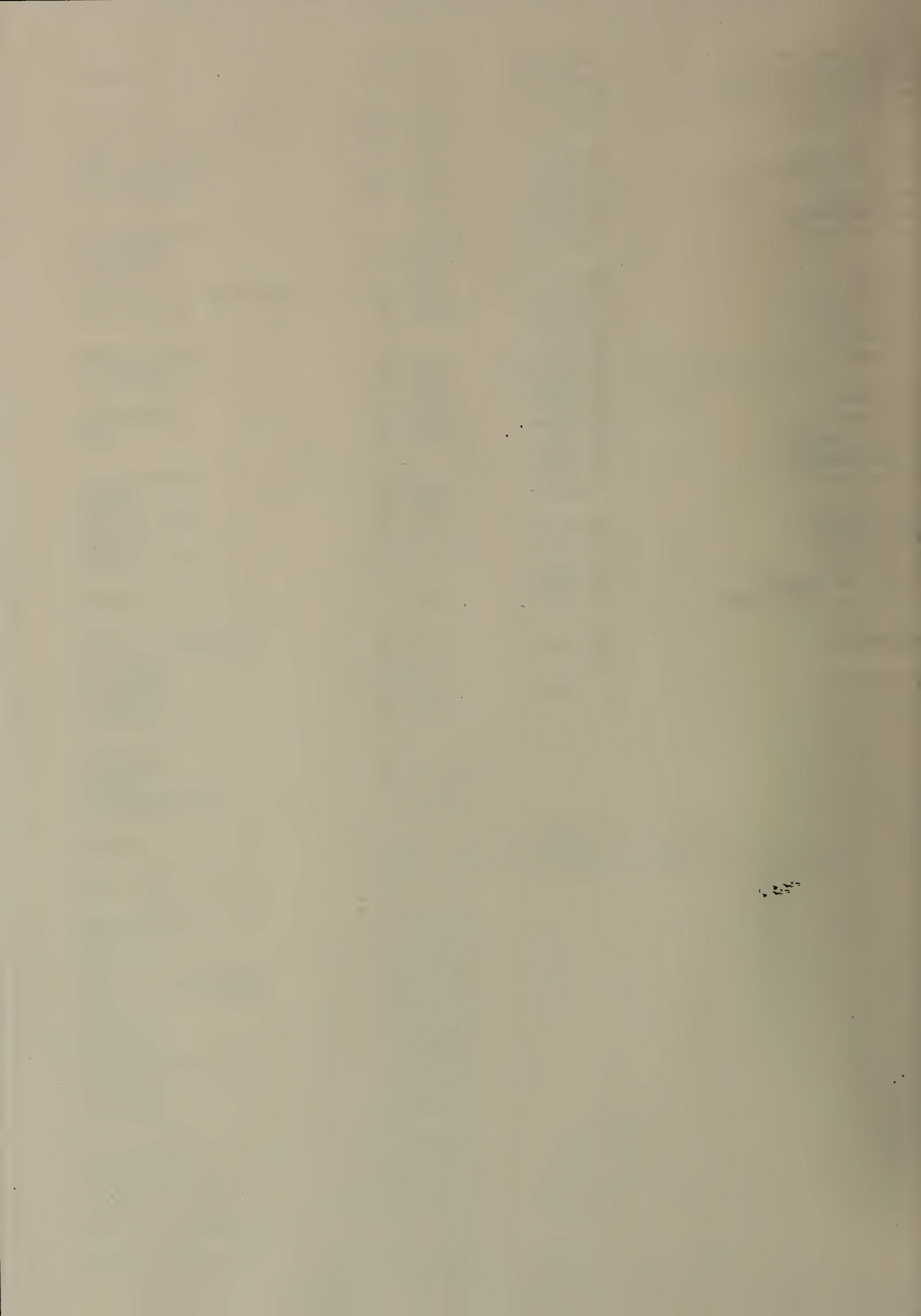
FOXBOROUGH	MA 0176
FRAMINGHAM	MA 0094
FRANKLIN	MA 0152
FREETOWN	MA 0264
City of GARDNER	MA 0016
GAY HEAD	MA 0275
GEORGETOWN	MA 0133
GILL	MA 0134
City of GLOUCESTER	MA 0136
GRAFTON	MA 0177
GRANBY	MA 0118
GRANVILLE	MA 0326
GREAT BARRINGTON	MA 0008
GREENFIELD	MA 0021
GROTON	MA 0282
GROVELAND	MA 0071
HADLEY	MA 0285
HALIFAX	MA 0229
HAMILTON	MA 0239
HAMPDEN	MA 0103
HANOVER	MA 0244
HANSCOM AIR FORCE BASE	MA 0178
HANSON	MA 0215
HARDWICK	MA 0085
HARVARD	MA 0334
HARWICH	MA 0040
HATFIELD	MA 0157
City of HAVERHILL	MA 0031
HINGHAM	MA 0251
HINSDALE	MA 0313
HOLBROOK	MA 0190
HOLDEN	MA 0179
HOLLAND	MA 0321
HOLLISTON	MA 0236
City of HOLYOKE	MA 0034
HOPEDALE	MA 0218
HOPKINTON	MA 0306
HUBBARDSTON	MA 0330
HUDSON	MA 0139
HULL	MA 0205
HUNTINGTON	MA 0341
IPSWICH	MA 0142
KINGSTON	MA 0159
LAKEVILLE	MA 0278
LANCASTER	MA 0237
LANESBOROUGH	MA 0300
City of LAWRENCE	MA 0056
LEE	MA 0009
LEICESTER	MA 0044

LENOX	MA 0010
City of LEOMINSTER	MA 0017
LEXINGTON	MA 0140
LINCOLN	MA 0324
LITTLETON	MA 0294
LONGMEADOW	MA 0138
City of LOWELL	MA 0082
LUDLOW	MA 0081
LUNENBURG	MA 0077
City of LYNN	MA 0113
LYNNFIELD	MA 0167
City of MALDEN	MA 0012
MANCHESTER	MA 0154
MANSFIELD	MA 0186
MARBLEHEAD	MA 0263
MARION	MA 0104
City of MARLBOROUGH	MA 0122
MARSHFIELD	MA 0191
MASHPEE	MA 0320
MATTAPOISETT	MA 0105
MAYNARD	MA 0146
MEDFIELD	MA 0258
City of MEDFORD	MA 0048
MEDWAY	MA 0189
City of MELROSE	MA 0097
MENDON	MA 0252
MERRIMAC	MA 0162
METHUEN	MA 0093
MIDDLEBOROUGH	MA 0254
MIDDLETON	MA 0223
MILFORD	MA 0181
MILLBURY	MA 0121
MILLIS	MA 0174
MILLVILLE	MA 0291
MILTON	MA 0163
MONSON	MA 0022
MONTAGUE	MA 0023
NAHANT	MA 0287
NANTUCKET	MA 0045
NATICK	MA 0141
NEEDHAM	MA 0199
City of NEW BEDFORD	MA 0067
NEWBURY	MA 0143
City of NEWBURYPORT	MA 0125
City of NEWTON	MA 0117
NORFOLK	MA 0248
City of NORTH ADAMS	MA 0004
NORTH ANDOVER	MA 0102
NORTH ATTLEBORO	MA 0135

NORTH BROOKFIELD	MA	0308
NORTH READING	MA	0171
City of NORTHAMPTON	MA	0108
NORTHBOROUGH	MA	0197
NORTHBRIDGE	MA	0180
NORTHFIELD	MA	0089
NORTON	MA	0170
NORWELL	MA	0206
NORWOOD	MA	0148
NORWICH	MA	0106
NORWICH BLUFFS	MA	0272
NORWICH	MA	0344
NORWICH RANGE	MA	0014
NORWICH RLEANS	MA	0095
NORWICH FORD	MA	0120
NORWICH	MA	0024
NORWICH	MA	0304
City of PEABODY	MA	0119
PEABODY	MA	0084
PEABODY BROKE	MA	0228
PEPPERELL	MA	0281
PILGRIMAGE	MA	0340
City of PITTSFIELD	MA	0028
PITTSFIELD	MA	0150
PITTSFIELD	MA	0123
PITTSFIELD	MA	0245
PROVINCETOWN	MA	0193
City of QUINCY	MA	0126
RANDOLPH	MA	0212
RANDOLPH	MA	0234
READING	MA	0109
REHOBOTH	MA	0303
City of REVERE	MA	0032
RICHMOND	MA	0096
RICHMOND	MA	0283
RICHMOND	MA	0224
RICHMOND	MA	0137
RICHMOND	MA	0216
RUTLAND	MA	0328
City of SALEM	MA	0063
SALISBURY	MA	0165
SANDWICH	MA	0246
SAUGUS	MA	0112
SITUATE	MA	0208
SEABOARD	MA	0249
SEABOARD	MA	0211
SEABOARD	MA	0030
SEABOARD	MA	0310

SHIRLEY	MA 0295	
SOMERSET	MA 0149	
City of SOMERVILLE	MA 0057	
SOUTH HADLEY	MA 0035	
SOUTHAMPTON	MA 0184	
SOUTHBOROUGH	MA 0259	
SOUTHBRIDGE	MA 0029	
SOUTHWICK	MA 0161	
SPENCER	MA 0043	
City of SPRINGFIELD	MA 0168	
STERLING	MA 0250	
STOCKBRIDGE	MA 0011	
STONEHAM	MA 0042	(Continental Cablevision Inc.)
	MA 0101	(Time Warner Cable)
STOUGHTON	MA 0201	
STOW	MA 0256	
STURBRIDGE	MA 0209	
SUDBURY	MA 0255	
SUNDERLAND	MA 0091	
SUTTON	MA 0292	
SWAMPSCOTT	MA 0114	
SWANSEA	MA 0151	
City of TAUNTON	MA 0144	
TEMPLETON	MA 0127	
TEWKSBURY	MA 0145	
TISBURY	MA 0277	
TOPSFIELD	MA 0288	
TOWNSEND	MA 0296	
TRURO	MA 0284	
TYNGSBOROUGH	MA 0232	
UPTON	MA 0242	(Greater Media Cable)
	MA 0332	(Continental Cablevision Inc.)
UXBRIDGE	MA 0290	
WAKEFIELD	MA 0164	
WALES	MA 0338	
WALPOLE	MA 0220	
City of WALTHAM	MA 0261	
WARE	MA 0025	
WAREHAM	MA 0106	
WARREN	MA 0026	
WATERTOWN	MA 0130	
WAYLAND	MA 0267	
WEBSTER	MA 0037	
WELLESLEY	MA 0241	
WELLFLEET	MA 0194	
WENHAM	MA 0240	
WEST BOYLSTON	MA 0319	
WEST BRIDGEWATER	MA 0235	
WEST BROOKFIELD	MA 0305	

WEST NEWBURY	MA 0188
WEST SPRINGFIELD	MA 0053
WEST STOCKBRIDGE	MA 0311
WEST TISBURY	MA 0276
WESTBOROUGH	MA 0198
City of WESTFIELD	MA 0052
WESTFORD	MA 0192
WESTHAMPTON	MA 0322
WESTMINSTER	MA 0230
WESTON	MA 0268
WESTPORT	MA 0297
WESTWOOD	MA 0204
WEYMOUTH	MA 0129
WHATELY	MA 0345
WHITMAN	MA 0200
WILBRAHAM	MA 0054
WILLIAMSBURG	MA 0158
WILLIAMSTOWN	MA 0005
WILMINGTON	MA 0078
WINCHENDON	MA 0213
WINCHESTER	MA 0111
WINTHROP	MA 0061
City of WOBURN	MA 0033
City of WORCESTER	MA 0018
WRENTHAM	MA 0203
YARMOUTH	MA 0006



FCC 329

CABLE PROGRAMMING SERVICE RATE COMPLAINT FORM

(Carefully read instructions on reverse before filling out form)

For FCC Use Only

1. Complainant's Name		
Mailing Address		
City	State	ZIP Code
Daytime Telephone No. (include area code):		

2. Local Franchising Authority's Name		
Mailing Address		
City	State	ZIP Code

3. Cable Company's Name		
Mailing Address		
City	State	ZIP Code
Cable Company's FCC Community Unit Identifier (if known):		

4. Indicate whether this is the first time you have filed this complaint with the FCC or whether you are filing a corrected complaint to cure a defect in a prior complaint. CHECK ONE.

☐	First time complaint
☐	Corrected complaint

5. If you are filing a corrected complaint to cure a defect in a prior complaint, indicate the date the prior complaint was filed with the FCC and the date you received notification from the FCC that the prior complaint was defective.

Date prior complaint filed: _____	Month	Date	Year
Date you received FCC notification that the prior complaint was defective: _____	Month	Date	Year

6. Indicate whether you are challenging the reasonableness of: (1) a rate concerning cable programming service or associated equipment in effect on September 1, 1993; or (2) a rate increase. (See the Instructions for different filing deadlines depending on which type of complaint you are filing.) CHECK ONE.

☐	Rate in effect on September 1, 1993
☐	Rate increase

7. If you are a subscriber challenging the reasonableness of a rate increase, indicate the date you first received a bill from the cable operator reflecting the rate increase about which you are complaining.

Month	Date	Year
-------	------	------

8. Indicate the current monthly rate for the cable programming service or associated equipment and, if you are challenging the reasonableness of a rate increase, the most recent rate in effect immediately prior to the rate increase.

Current Monthly Rate: \$ _____	Month	Year
Previous Monthly Rate: \$ _____	Month	Year

9. In the tables below, describe the cable programming service to which the complaint is addressed and, if applicable, how it has changed. If this space is insufficient, include any additional comments on a separate page attached to this form.

List channels by name included in the service:

List channels by name deleted from the service (if any):

List channels by name added to the service (if any):

10. If you are a subscriber, you must attach a copy of your current bill reflecting the rate or rate increase about which you are complaining. NOTE: Failure to attach a copy of your current bill reflecting the rate or rate increase may result in dismissal of your complaint.

I have attached a copy of my current bill. _____ ☐ Yes ☐ No

11. Optional: If you are a subscriber challenging the reasonableness of a rate increase, attach a copy of a previous bill (if available) reflecting the rate immediately prior to the rate increase.

I have attached a copy of my previous bill. _____ ☐ Yes ☐ No

12. I certify that I am sending a copy of this complaint, including all attachments, to the cable company and the local franchising authority at the addresses listed above via first class mail, postage prepaid, at the same time I am sending a copy of this complaint to the FCC. NOTE: Failure to satisfy this requirement may result in dismissal of your complaint. The cable company will not be required to respond unless you send a copy of the complaint to the cable company by mail.

_____ ☐ Yes ☐ No

Date sent:	Month	Date	Year
------------	-------	------	------

13. I believe that the cable company's rate for the cable programming service or associated equipment described above is unreasonable because it violates the FCC's rate regulations. (CHECK BOX) _____ ☐

14. I certify that, to the best of my knowledge, the information supplied on this form is true and correct.

Signature
Date

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE TITLE 18, SECTION 1001)

FCC 329 INSTRUCTIONS

1. This FCC form is to be used by subscribers, franchising authorities, and other relevant state or local government entities seeking to file a complaint with the FCC challenging the reasonableness of a cable company's rates for cable programming service or for installation or rental of equipment used to receive cable programming service.
 2. The term "cable programming service" includes all video programming provided by a cable company **except**: (1) programming provided on the basic service tier; or (2) programming provided on a pay-per-channel or pay-per-program basis. See Question 9.
 3. The "basic service tier" is the tier that includes over-the-air television broadcast signals and public, educational and governmental access channels. Under federal law, in most instances, your local franchising authority rather than the FCC regulates rates for the basic service tier or associated equipment. Therefore, if you believe that your rate for the basic service tier or associated equipment is unreasonable, you should contact your local franchising authority to determine if it is authorized to regulate basic service tier rates.
 4. Under federal law, video programming provided on a pay-per-channel or pay-per-program basis (for example, a premium movie channel such as HBO or a pay-per-view sports event) is not subject to rate regulation by either the FCC or your local franchising authority.
 5. If you are concerned about your rates for cable programming service or associated equipment, then you may fill out this form and submit it to the FCC. The FCC will examine the reasonableness of your cable programming service rate according to a specific formula. If the rate the cable company currently is charging you for the cable programming service is greater than the rate produced by the FCC's formula, the cable company's rate will be presumed unreasonable. In these circumstances, unless the cable company can provide cost information to justify the reasonableness of its rate, the FCC may order a refund and/or a prospective rate reduction for the cable programming service at issue.
 6. Please note the following time limitations for filing a complaint:
 - If you are challenging the reasonableness of a rate increase for cable programming service or associated equipment, your complaint must be actually received by the FCC within 45 days from the date you receive a bill from your cable company reflecting the rate increase. (Note: a reduction in number of channels may constitute an effective rate increase even though the existing rate for the cable programming service remains unchanged.)
 - The only exception to the 45 day time limitation concerns cable programming service and associated equipment rates in effect when the FCC's rules become effective – that is, September 1, 1993. You may challenge the reasonableness of such rates, but you must file your complaint within 180 days from September 1, 1993 – that is, by February 28, 1994.
 - After February 28, 1994, you may only file complaints about rate increases and you must follow the general 45-day filing requirement described above.
 - Late-filed complaints will be dismissed with no opportunity to refile.
 7. In addition to the cable company's name and mailing address, you should provide the cable company's "FCC Community Unit Identifier." (The FCC Community Unit Identifier is a number assigned to each cable system by the FCC for administrative purposes.) Also, you must provide the name and mailing address of the local franchising authority. (The local franchising authority is the local municipal, county or other government organization that regulates cable television in your community.) FCC rules require the cable company to furnish all this information to you on your monthly bill. If this information does not appear either on the front or back of your monthly bill, contact your cable company, your local franchising authority, or your local government to obtain the necessary information before filling out this form.
 8. You must indicate whether you are challenging the reasonableness of: (1) a rate concerning cable programming service or associated equipment in effect on September 1, 1993; or (2) a rate increase. Except for a limited opportunity to challenge existing rates in effect on September 1, 1993, complaints may be filed only in the event of a rate increase.
 9. If you are a subscriber, you must attach a copy of your monthly cable bill reflecting the rate or rate increase about which you are complaining. If you are challenging the reasonableness of a rate concerning cable programming service or associated equipment in effect on September 1, 1993, the bill should reflect that rate. If you are challenging the reasonableness of a rate increase, the bill should reflect the increased rate. (If you are challenging the reasonableness of a rate increase and have a previous bill which reflects the rate immediately prior to the increase, please attach a copy of the previous bill – note, however, that this is optional.)
 10. You must check the box stating your belief that the cable programming service rate is unreasonable. The FCC staff will apply the formula mentioned in paragraph 5 to determine whether the cable company's rate is presumed reasonable or not – you do not need to make this calculation.
 11. You must fill in all information required by this form.
 12. You may contact your local franchising authority for assistance in filling out this form. In addition, you may attach a statement from your local franchising authority describing its views on the reasonableness of the cable programming service rate in question. This is not a requirement. If you do attach such a statement, you should also mail a copy of it to the cable company.
 13. You must sign and date this form.
 14. Copies must be mailed, including all attachments, to the following:

Original:
Federal Communications Commission
Attn: Cable Programming Service Rate Complaint,
P.O. Box 18958
Washington, D.C. 20036;

the cable company (at the address listed on your complaint); and

the local franchising authority (at the address listed on your complaint).

Please be sure to send all copies to the correct address. If you do not, we may not be able to process your complaint.
 15. **NOTE:** If you do not mail a copy of this form, including all attachments, to the cable company at the same time you mail your complaint to the FCC, the cable company will not be required to respond and your complaint may be dismissed.
 16. If your complaint meets the requirements listed above, the FCC will require the cable company to respond to your complaint within thirty days and provide a justification for the reasonableness of your rate. The cable company must provide you with a copy of its response to the FCC.
 17. The FCC staff will examine your complaint and the cable company's response and then rule on the reasonableness of the cable programming service rate. This ruling will be in writing, and you will receive a copy by mail. If the FCC staff determines that the rate in question is unreasonable, it may order refunds and/or prospective rate reductions. If it determines that the rate in question is reasonable, the FCC staff will deny the complaint.
- FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT**
- The solicitation of personal information in this form is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine the reasonableness of a cable company's rates. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. All information provided in this form will be available for public inspection. Your response is required to obtain the requested relief.
- Public reporting burden for this collection of information is estimated to average 1 hour, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, AMID-PERS, Washington, D. C. 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060-0549), Washington, D. C. 20503.
- THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1975, 5 U.S.C. 522a(e)(2) AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.

GOVERNMENT DOCUMENTS
COLLECTION

OCT 19 1994

University of Massachusetts
Depository Copy

Massachusetts Cable Television Commission

C A B L E B U L L E T I N

Number 93-7

October 22, 1993

This Cable Bulletin provides Massachusetts issuing authorities with important information regarding basic service tier and equipment rate regulation. Specifically, this Bulletin will provide an overview of: (1) the "benchmark" approach to rate regulation, (2) federal and state regulatory procedures regarding benchmark determinations, (3) costs that operators can pass through to subscribers, (4) cable operators' refund liability, and (5) procedures that issuing authorities should follow to submit a Statement of Clarification in response to a cable operator's benchmark filing. Cognizant of issuing authorities' role in rate regulation, this Bulletin will highlight, where appropriate, opportunities that federal and state regulations provide for local input. As always, we suggest that you distribute copies of this Cable Bulletin to your Cable Advisory Board.

I. Introduction To Benchmark Approach

The Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act of 1992") provides for the regulation of cable television rates in the absence of competition. The Cable Act of 1992 directed the FCC (for purposes of this bulletin, the "FCC" will refer to the Federal Communications Commission while the "Commission" will refer to the Massachusetts Cable Commission) to create a regulatory framework that would produce "reasonable" rates while minimizing the administrative burden on subscribers, cable operators, and government regulators.

Traditionally, rate regulators have used a cost-of-service approach to ensure reasonable rates for consumers. Although this process can produce accurate rates, it typically involves considerable time and expense. In addition, cost-of-service rate regulation can encourage regulated companies to inefficiently over-invest while passing the costs on to consumers. The FCC's extensive exposure to the disadvantages of cost-of-service rate

regulation led it to consider more streamlined approaches.

In an effort to comply with the Congressional mandate, the FCC devised a regulatory framework that relies on a series of "benchmarks" to determine "reasonable" basic service tier and equipment rates. By comparing the rates of systems that face "effective competition" with the rates of those that do not, the FCC rate study found that the average rates charged by systems subject to effective competition were 10% lower than those that were not.¹ Therefore the FCC concluded that "the reasonableness of rates for the basic service tier . . . [will] be determined by reference to the rates of systems facing effective competition."² Accordingly, the FCC adopted a benchmark system intended to approximate the rates that a cable operator would charge if it were to operate under effective competition.

In implementing rate regulation in Massachusetts, the Commission will use a FCC-established benchmark to set a cable operator's initial maximum permitted per-channel rate for basic tier service in those communities which have requested rate regulation. If a cable operator's existing per-channel rate is at or below the benchmark rate on the date of initial regulation, it will be deemed reasonable; if the rate is above the benchmark rate, it will be presumed unreasonable and must be reduced unless justified by a cost-of-service showing. If a cable operator's per-channel rate is above the benchmark, it must be reduced either to the benchmark level or to a level which is 10% less than the operator's September 30, 1992 rate; whichever reduction will yield a higher per-channel rate. Once the Commission has set an operator's initial per-channel rate, subsequent increases of this per-channel rate will be tied to inflation under a price cap mechanism.

Finally, the Cable Act of 1992 ties charges for equipment to cable operators' actual cost (plus a reasonable profit) and requires them to "unbundle" equipment charges from service charges. The Commission will use FCC Form 393 to set initial rates and unbundle equipment charges from programming charges.

II. Overview of Regulatory Procedures

This section will provide an overview of state and federal regulatory procedures relevant to issuing authorities. It will also highlight important windows of opportunity for local input.

¹ The definition of effective competition can be found in paragraph 14 of the Executive Summary of the FCC's First Report and Order attached to Cable Bulletin Number 93-2 dated May 10, 1993.

² First Order on Reconsideration, paragraph 8.

FCC Regulations

On October 7, 1993, the Commission received FCC certification to regulate cable television rates in Massachusetts. The Commission's own rate regulations (207 CMR 6:00) became effective on October 8, 1993. (Copies of these regulations, dated September 24, 1993, were mailed to all Massachusetts issuing authorities.)

Massachusetts Regulation

Now that the Commission has been certified by the FCC, it is sending notices to cable operators in those communities that have requested rate regulation. Upon receipt of this notice, cable operators shall file their channel line-ups and a complete schedule of rates with the Commission and the relevant issuing authority within 30 days. Cable operators must also include a completed FCC Form 393 when they submit benchmark filings.

The Commission will use this information to review existing rates and all future proposed increases. The Commission may initially take up to 30 days to review existing rates or proposed increases. At the end of this 30-day period, if the Commission deems it necessary, it may take up to an additional 90 days to examine a benchmark filing.³

Statement of Clarification

Within 30 days of an operator's filing of the completed FCC Form 393, the relevant issuing authority may, at its option, present the Commission with a Statement of Clarification. In the Statement of Clarification the issuing authority may identify any discrepancies or inconsistencies submitted by cable operators relating to, but not limited to, benchmark calculations, franchise fee determinations, equipment installation rates, and external costs.

Attached to this Bulletin is a sample Statement of Clarification that issuing authorities may wish to use; or alternatively, issuing authorities may submit a narrative statement.

* * * * *

³ If the cable operator submits a cost-of-service showing, the Commission may take up to an additional 150 days to examine the filing.

The following section will provide details regarding FCC Form 393. FCC Form 393 is quite technical; therefore, it might be useful to re-read this section once you have received a copy of your operator's FCC 393 filing.

III. Overview of Form FCC 393

The FCC's rate regulation process requires each cable operator to submit financial information and subscriber data in order to determine its basic service tier rate. To streamline this process the FCC developed FCC Form 393, which must be completed by all cable operators submitting benchmark filings.

FCC Form 393 consists of three parts. Part I is the cover sheet where a cable operator summarizes information from Part II and III. Part II will enable each operator to determine its maximum permitted per-channel rate and to unbundle equipment charges from its programming charges. The cable operator will use Part III to establish equipment and installation rates. Since the cable operator will complete these parts in reverse order, we will present them accordingly.

Part III - Calculating Equipment and Installation Charges.

FCC rules require that all equipment and installation charges be "unbundled" from programming charges and that these charges must be based on actual costs. Each operator will use this section to develop cost based charges for the lease of customer premises equipment (e.g. converter boxes and remotes) and their installation and maintenance fees.

Schedules A and C of Part III require each cable operator to calculate a recoverable amount for each different type of equipment. This amount consists of: 1) a reasonable return for all types of customer premises equipment and equipment used to support customer installation and maintenance (e.g. trucks and tools), 2) taxes and 3) depreciation.

Each cable operator will then complete Schedule B to calculate the portion of operating expenses, exclusive of depreciation, that is used to support the installation and maintenance of customer equipment.

Each operator will then use the information derived from these Schedules to calculate equipment charges and service rates. Part II will use these amounts to unbundle equipment from the per-channel rate.

Part II - Calculating Maximum Initial Permitted Rate Per Channel
For Basic Tier Or Cable Programming Service.

Part II, which consists of five worksheets, will enable a cable operator to calculate the maximum initial permitted rate per channel. Worksheet 1 will allow a cable operator to calculate its current per-channel rate. This rate is then compared to the current benchmark per-channel rate. If the operator's current rate is less than or equal to the benchmark rate, it is presumed to be reasonable and the operator can proceed to Worksheet 3 to unbundle its equipment charges from its programming charges.

However, if the operator's current per-channel rate is greater than the benchmark rate, it must complete Worksheet 2. Worksheet 2 will compare an operator's September 30, 1992 per-channel rate to the benchmark rate as of that date.⁴ If the operator's per-channel rate as of September 30, 1992 was below the benchmark rate, it may raise its September 30, 1992 per-channel rate to the benchmark. If the operator's September 30, 1992 per-channel rate was above the benchmark, then the operator must reduce its September 30, 1992 rate by 10% or to the benchmark; whichever reduction is less (i.e. whichever reduction will yield the higher rate).

Worksheet 3 will allow all operators to unbundle equipment charges from their programming charges. For those operators who filled out Worksheet 2, Worksheets 4 and 5 allow them to adjust for changes in inflation and the number of regulated channels that may have occurred between September 30, 1992 and the date of the current filing.

PART I - Cover Sheet

This section is simply a summary of data calculated in Parts II and III. Operators use the cover sheet to present the permitted benchmark charges as well as the actual rates.

IV. External Costs

Once initial per-channel rates are determined, they are governed by a "price cap." This cap permits annual adjustments tied to an inflationary index (GNP-PI). However, the FCC also

⁴ When the current rates are used, the benchmark rate is adjusted forward for inflation since September 30, 1992 rates were used to construct the benchmark. The FCC used September 30, 1992 as index date to exclude any rate increases that may have occurred after the passage of the Cable Act of 1992 but before the FCC adopted its regulations.

recognizes that cable companies should be allowed to recover costs over which they have no control. Since these costs will be passed on directly to cable subscribers, these costs have been labeled "external costs." (The FCC has also stated that any reduction in external costs must be reflected in subscribers' rates.) These costs include: 1) franchise fees; 2) retransmission consent fees; 3) programming costs; and 4) taxes, fees, and other costs associated with meeting franchise obligations. With the exception of franchise fees, increases (and decreases) of external costs are allowed only to the extent that they exceed inflation.

Since the FCC removed franchise fees from rates before establishing benchmark rates, franchise fees will be given external treatment as of the effective date of FCC regulations (September 1, 1993). External treatment of retransmission consent fees will commence on October 6, 1994. Programming costs, taxes, fees, and other costs associated with franchise obligations will be treated as external costs once the cable operator is subject to regulation but in all cases, no later than February 28, 1994 (180 days after the effective date of FCC regulations).

V. Refunds

As part of the Commission's initial review of existing rates, it may order refunds for rates that exceed the maximum permitted rate when it is not justified by a cost-of-service showing. The permissible refund period begins on the date the cable operator implements a prospective rate reduction and goes back to the effective date of FCC regulation (September 1, 1993) or one year, whichever time period is shorter.

Finally, if the Commission has taken an additional 90 or 150 days to examine an operator's filing but has not completed its review by the end of this period, the Commission may issue a brief written order requesting the operator to keep accurate accounts of all amounts paid by each subscriber. If the Commission later rules that the rate in question is unreasonable, it may order refunds; but the maximum refund liability period will extend back to September 1, 1993 or one year; whichever time period is shorter.

All refunds shall include interest computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments.

* * * * *

We hope this information is helpful to you in understanding how the Commission will conduct rate regulation for communities which have requested it. If you have any questions regarding this material or any other cable matter, please don't hesitate to contact us at (617) 727-6925 or Fax: (617) 727-7887.

ATTACHMENT "A"

Commission regulations state that issuing authorities that wish to submit a Statement of Clarification, regarding their cable operator's Form 393 submission, may do so. This submission may be in the form of a narrative statement. However, in order to assist local issuing authorities, the Commission offers this Sample Statement of Clarification, which may be used by issuing authorities.

SAMPLE STATEMENT OF CLARIFICATION

City/Town of _____, Massachusetts

In submitting our Statement of Clarification to the Commission, we respond to the questions below as follows:

1. Do you have reason to question the accuracy of the cable operator's tier charges as listed on lines 101 and 201 of FCC Form 393? ____ Yes ____ No

If you answered "Yes" to Question #1, please describe: _____

2. Do you have reason to question the accuracy of the cable operator's channel count as listed on lines 102 and 202 of FCC Form 393? ____ Yes ____ No

If you answered "Yes" to Question #2, please complete the following information:

	9/30/92	9/1/93	As per FCC Form 393
Total Broadcast Basic channels ⁵	_____	_____	_____
Total Cable Programming Services channels ⁶	_____	_____	_____

⁵ The basic service tier shall, at a minimum, include all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system); any public, educational, and governmental programming required by the franchise to be provided to subscribers; and any additional video programming signals or service added to the basic tier by the cable operator.

⁶ Cable programming service tier(s) include any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than: (a) video programming carried on the basic service tier; (b) video programming offered on a pay-per channel or pay-per-program basis; or (c) a combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service: 1) consists of commonly-identified video programming; and 2) is not bundled with any regulated tier of service.

3. Do you have reason to question the accuracy of the cable operator's subscriber count as listed on lines 103 and 203 of FCC Form 393? Yes No

If you answered "Yes" to Question #3, please describe:_____

4. Do you believe the cable operator's determination of franchise fees to be accurate? Yes No

If you answered "No" to Question #4, please explain:

5. Did the cable operator separately itemize franchise fees, on subscribers' bills, before September 30, 1992? Yes No

6. Are franchise fees currently being itemized on subscribers' bills? Yes No

7. The Commission welcomes any additional explanation or information that will assist us with our analysis of the cable operator's rate filing. Have you submitted additional information with this form? Yes No

As issuing authority for the City/Town of _____
I/we attest that the information and statements of this form are
accurate to the best of my/our knowledge.

Issuing Authority

(Date)

Important Procedural Notes:

(1) Commission regulations (207 CMR 6.36 (2) and (3)) state that where an issuing authority chooses to present a Statement of Clarification to the Commission, it "shall be filed within 30 days of the cable operator's filing [and]. . .[t]he issuing authority shall file its Statement of Clarification with the affected cable operator at the same time that it files [the Statement of Clarification] with the Commission. The cable operator, shall, at its option, and within 15 days of the filing of the Statement of Clarification, file with the Commission and the issuing authority a response to the Statement of Clarification."

(2) A Statement of Clarification may only be submitted by an issuing authority. MGL Ch. 166A, §1 defines the issuing authority as "the city manager of a city having a plan D or E charter, the Mayor of any other city, or the Board of Selectmen of a Town."

